

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA  
AT CHARLESTON

MARK MCATEE,

Plaintiff,

v.

Civil Action No. 2:19-cv-00661

BETSY JIVIDEN, RALPH TERRY, CPT.  
MCKINNEY, JOHNATHAN FRAME, CPT.  
CLIFFORD, BRENDA WARD, CHERYL  
CHANDLER, GREG RODGERS, TIM  
CARPER, MAJOR WILLIAMS, SHANNA  
COLEMAN, sued in their individual  
and official capacities, jointly  
and severally,

Defendants.

MEMORANDUM OPINION AND ORDER

The court having received the Proposed Findings and Recommendation of United States Magistrate Dwane L. Tinsley, entered on December 21, 2021 (ECF No. 89); and the magistrate judge having recommended that (1) the court grant the defendants Tim Carper, Shanna Coleman, and Greg Rodgers' Motion to Set Aside Entry of Default (ECF No. 66), (2) set aside the default entered against defendants Carper, Coleman, and Rodgers, and (3) order defendants Carper, Coleman, and Rodgers to pay the costs and expenses plaintiff and his counsel have incurred in opposing the motion to set aside default; and no objection having been filed to the Proposed Findings and Recommendation, it is ORDERED

that the findings and recommendation made in the Proposed Findings and Recommendation of the magistrate judge (ECF No. 89) be, and they hereby are, adopted by the court and incorporated herein.

Accordingly, it is further ORDERED that:

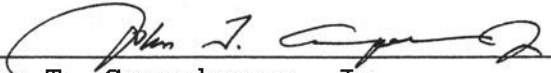
1. The Motion to Set Aside Entry of Default (ECF No. 66) filed by Defendants Tim Carper, Shanna Coleman, and Greg Rodgers be, and hereby is, granted;

2. The Clerk's entry of default against Defendants Tim Carper, Shanna Coleman, and Greg Rodgers (ECF No. 64) be, and hereby is, set aside and vacated; and

3. The plaintiff is awarded costs, associated with opposing the motion to set aside default, against the three above-named defendants.

The Clerk is directed to forward copies of this memorandum opinion and order to all counsel of record, any unrepresented party, and United States Magistrate Judge Tinsley.

ENTER: January 26, 2022

  
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John T. Copenhaver, Jr.  
Senior United States District Judge